



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr.
Secretary of Natural Resources

NORTHERN VIRGINIA REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3801
www.deq.virginia.gov

David K. Paylor
Director

~~Jeffery A. Steers~~
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO

POHANKA COLLISION CENTER, INC.

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1455 between the Virginia Waste Management Board and Pohanka Collision Center, Inc. for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Pohanka" means Pohanka Collision Center, Inc., a corporation registered and authorized to do business in Virginia.

7. "Facility" means the Pohanka Collision Center located at 1315 Lafayette Boulevard in Fredericksburg, VA.
8. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Regulations" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* ("HWMR"). The specific provisions of Title 40 of the Code of Federal Regulations ("CFR") cited herein are incorporated by reference at 9 VAC 20-60-260, 9 VAC 20-60-261, 9 VAC 20-60-262, 9 VAC 20-60-264, 9 VAC 20-60-265, 9 VAC 20-60-268, and 9 VAC 20-60-270.
10. "CESQG" means a Conditionally Exempt Small Quantity Generator pursuant to 40 CFR 261.5.

SECTION C: Findings of Fact and Conclusions of Law

1. Scott Crabtree is President of Pohanka Collision Centers Inc. The Pohanka Collision Center at 1315 Lafayette Boulevard in Fredericksburg, Virginia, is the subject of this Order.
2. Pohanka has been in operation at the Facility since October, 1998. The building was leased by Pohanka on October 15, 1998 and purchased on November 15, 2000.
3. At the Facility Pohanka operates a distillation unit which it uses to recycle its lacquer thinner. The distillation unit has been in operation since operations commenced at the Facility in October, 1998.
4. On February 9, 2007, DEQ NVRO staff conducted a compliance inspection of the Facility.
5. On April 30, 2007, DEQ issued a Notice of Violation (NOV) to Pohanka that set forth the following violations of the Regulations observed during the February 9, 2007 inspection. Following a meeting with Pohanka and DEQ, it was determined that Pohanka is operating as a CESQG at the Facility. The following alleged violations apply :
 - 40 CFR 262.11 requires all generators of solid waste to determine if it is hazardous waste. Pohanka generates solid waste in the form of spent lacquer thinner still bottoms. These lacquer thinner still bottoms are an F-listed hazardous waste pursuant to 40 CFR 261.31. DEQ alleges that Pohanka did not determine whether these wastes met the definition of a hazardous waste prior to disposing of them in the trash.

- 40 CFR 270 requires all hazardous waste treatment, storage, and disposal facilities to obtain a hazardous waste permit. DEQ alleges that Pohanka has been disposing lacquer thinner still bottoms, an F-listed hazardous waste, in the trash without having obtained a permit to dispose of hazardous waste on-site in the trash. 40 CFR 261.5(g)(3) requires all conditionally exempt small quantity generators to treat or dispose of its hazardous waste onsite or ensure delivery to an off site facility provided that the facility or the receiving facility is permitted under 40 CFR 270 or otherwise authorized by the State to handle hazardous waste.
6. Pohanka submitted to DEQ a packet of information which was received by DEQ on May 15, 2007, outlining corrective actions Pohanka has taken since both the DEQ inspection on February 9, 2007 and the NOV issued on April 30, 2007.
 7. Pohanka met with DEQ on June 22, 2007 to discuss compliance issues and its generator status. Lacquer thinner purchase data for 2005, 2006, and 2007 was provided to DEQ to support Pohanka's status as a CESQG.

SECTION D: Agreement and Order

Accordingly, the Virginia Waste Management Board, by virtue of the authority granted it in Va. Code §§10.1-1402, 10.1-1405, and 10.1-1455, orders Pohanka Collision Center, Inc. and Pohanka Collision Center, Inc. agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Pohanka Collision Center, Inc. and Pohanka Collision Center, Inc. voluntarily agrees, to pay a civil charge of \$7,800.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The payment shall include Pohanka Collision Center, Inc.'s Federal Tax ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Pohanka Collision Center, Inc. for good cause shown by Pohanka Collision Center, Inc. or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action

authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Pohanka Collision Center, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Pohanka Collision Center, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Pohanka Collision Centers, Inc. waives the right to any hearing or administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding or action taken by the Board to enforce this Order.
6. Failure by Pohanka Collision Center, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Pohanka Collision Center, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Pohanka Collision Center, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Pohanka Collision Center, Inc. shall notify the NVRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

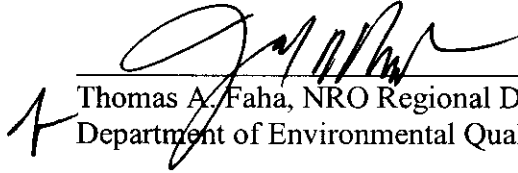
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the NVRO Regional Director within 24 hours of learning of any condition above, which Pohanka Collision Center, Inc. intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.


9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Pohanka Collision Center, Inc.. Notwithstanding the foregoing, Pohanka Collision Center agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Pohanka Collision Center, Inc.. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Pohanka Collision Center, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. Any plans, reports, schedules or specifications attached hereto or submitted by Pohanka Collision Center, Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. By its signature below, Pohanka Collision Center, Inc. voluntarily agrees to the issuance of this Order.
14. The undersigned representative of Pohanka Collision Center, Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Pohanka Collision Center, Inc. to this document. Any documents to be submitted pursuant to this order shall also be submitted by a responsible official of Pohanka Collision Center, Inc..

And it is so ORDERED this day of NOV 29
NOV 28, 2007.

11


Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Pohanka Collision Center, Inc. voluntarily agrees to the issuance of this Order.

By: 
Title: Pres
Date: 11-28-07

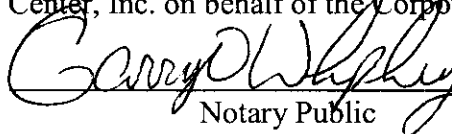
Commonwealth of Virginia

City/County of FAIRFAX

The foregoing document was signed and acknowledged before me this 28 day of

NOVEMBER, 2007, by SCOTT CRABTREE, who is
(Scott Crabtree)

PRESIDENT of Pohanka Collision Center, Inc. on behalf of the Corporation.
(President)


Notary Public

My commission expires: 31 DECEMBER 2010



BARRY Q. WHIPKEY
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
COMMISSION ID # 260230
MY COMM EXP DEC 31, 2010

APPENDIX A
SCHEDULE OF COMPLIANCE

Pohanka Collision Center, Inc. shall:

1. By no later than August 20, 2007, submit to DEQ for review and approval, a hazardous waste training program to ensure that all employees are thoroughly familiar with the proper waste handling and emergency procedures relevant to their responsibilities. This program shall include a requirement for those persons responsible for overseeing hazardous waste compliance at the Facility to attend an annual hazardous waste training course. This course should be conducted by someone trained in hazardous waste management procedures.
2. After coming into compliance with applicable Regulations, Pohanka shall continue to operate in accordance with the applicable Regulations and if at anytime in the future Pohanka shall qualify as a Small Quantity Generator as defined at 40 CFR 260.10, Pohanka shall comply with all applicable Small Quantity Generator Regulations.